

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WA.No. 1227 of 2006

(AGAINST THE JUDGMENT IN WP(C) NO 30840 OF 2005 DT 5.4.2006)

APPELLANT: 4TH RESPONDENT

P.S. RAVENDRAN, PAPPINIVATTATHU HOUSE,
NEAR SREE RAMA TEMPLE, THRIPPRAYAR,
VALAPPAD P.O., THRISSUR-680 567.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).

BY ADV. SRI.G.KRISHNAKUMAR

RESPONDENTS: RESPONDENTS 1 TO 3 AND PETITIONERS

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT CO-OPERATION
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
 2. JOINT REGISTRAR, CO-OPERATIVE
SOCIETIES (GENERAL), CIVIL STATION,
THRISSUR.
 3. THEISSUR URBAN CO-OPERATIVE BANK,
LTD.NO.87, REP. BY ITS GENERAL MANAGER,
MISSION QUARTERS HIGH ROAD, THRISSUR.
 4. T.V. SHEEBA, ACHUPARAMBIL HOUSE,
CHIYYARAM P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
 5. P.G. SANTHAKUMARI, KOLLATT HOUSE,
KANATTUKARA P.O., THRISSUR
(JUNIOR ACCOUNTANT, THRISSUR URBAN CO-OPERATIVE
BANK).

6. E.B. RAJAM, MUTHEDATHU PARAMBIL HOUSE,
VIYYUR P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
7. SHERLY C. GEORGE, KUTTOOKARAN HOUSE,
ARANATTUKARA P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK.)
8. V.S. UNNIKRISHNAN, VADAKOOTTU HOUSE,
PALAKKAL, PALISSERY P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
9. GEORGE C. CHUNGATH,
CHUNGATH HOUSE, PARAVATTANI,
OLLUKKARA P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
10. ALBERT SEBASTIAN CHIRAYATH,
CHIRAYATH HOUSE, MARATHAKKARA P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
11. K.B. KRISHNA PRIYA,
THRIPPAKKAL HOUSE, MANNUTHY P.O.,
THIRSSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK.)
12. P.B. ANITHA, KALARICKAL HOUSE,
KALVERY ROAD, POOTHOL P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
13. M.V. ROSILY, PALACARAN HOUSE,
MANNUTHY P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
14. P.K. BABY, KANJIRATHIMKAL HOUSE,
ERAVIMANGALAM P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
15. V.K. REKHA, NEDUPARAMBIL HOUSE,
VENGINISSERY P.O., PALAKKAL, THRISSUR
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).
16. P.R. SUDIN, PULIKKAL HOUSE,
CHULISSERY, KOLANGATTUKARA P.O.,

THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).

17. P.T. ROY, POOLAN HOUSE,
NELLIKKUNNU, THRISSUR-5.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).

18. V.G. GALEENA, SREE BHAVAN,
PALLIYIL HOUSE, POONKUNNAM P.O.,
THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).

19. C. REGHUNATHAN, CHATHANATH HOUSE,
CHIYYARAM P.O., THRISSUR.
(JUNIOR ACCOUNTANT, THRISSUR URBAN
CO-OPERATIVE BANK).

R1 BY GOVT PLEADER SRI BENNY GERVAISZ
R3 BY ADV. SRI C.D. DILEEP, SC, TRICHUR URBAN CO OP BANK
R19 BY ADV. SRI A. JAYASANKAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 26/06/2007, THE COURT ON 04/07/2007
DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & ANTONY DOMINIC, JJ.

Writ Appeal No 1227 of 2006

Dated: 4th July 2007

JUDGMENT

Radhakrishnan,J.

Writ petition was preferred by the appellants herein seeking a writ of certiorari to quash Exts. P5 and P7 orders. Ext. P5 is the order passed by the Joint Registrar holding that the fourth respondent is senior to the petitioners in the cadre of Junior Clerk and is therefore entitled to all consequential benefits. Ext. P7 is an order passed by the Government confirming Ext. P5. Aggrieved by the same writ petition was preferred. Learned single judge disposed of the writ petition placing reliance on the decision of another learned judge of this court in Prakasini v. Joint Registrar (2006 (1) KLT 199) and took the view that; the remedy open to the writ petitioners is to approach Co-operative Arbitration Court. Aggrieved by the same this appeal has been preferred.

2. Contention was raised by the counsel for the appellants that a dispute with regard to seniority between the appellants and the

fourth respondent is to be decided by Joint Registrar and not by the Arbitration Court. It was also stated that the second respondent has passed Ext P5 order on a direction given by this court in Ext P1 judgment and that judgment has become final and therefore jurisdiction has been conferred on the Joint Registrar to decide the seniority dispute between the parties.

3. We are of the view, after the coming into force of Act 1 of 2000 with effect from 02.01.2003, the dispute in connection with the employment of officers and servants of different classes of societies specified in sub-section (1) of Section 80 including their promotion and inter-se seniority has to be decided by the Arbitration Court and not by the Joint Registrar or by the Government. The mere fact that this court in a writ petition filed by the petitioners directed the Joint Registrar to decide the dispute cannot amount to conferring jurisdiction on the Joint Registrar to decide the dispute for which he has no jurisdiction. Judgment rendered by this court would not confer any jurisdiction or authority on the Joint Registrar when legislature has conferred jurisdiction on the Arbitration Court. When this court directs consideration of a matter by the Joint Registrar the Joint Registrar can decide that matter only in accordance with law.

Legislature has conferred jurisdiction on the Arbitration Court to decide the question of seniority and promotion and therefore the order passed by the Joint Registrar is without jurisdiction. Learned single judge has rightly allowed the writ petition and quashed the order passed by the Government confirming the order of the Joint Registrar.

4. Learned single judge of this court in Prakasini's case, supra has taken the view that inter se seniority between employees is to be decided by the Arbitration Court or by the Registrar and not by the Joint Registrar under Rule 176 of the Kerala Co-operative Societies Rules. Dispute between the parties consequently falls under Section 69 (2) (d) of the Act which is extracted hereunder for easy reference.

69. Disputes to be decided by Co-operative Arbitration Court and Registrar -

(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises:

- (a) xx xx xx xx
- (b) xx xx xx xx
- (c) xx xx xx xx
- (d) xx xx xx xx
- (e) xx xx xx xx
- (f) xx xx xx xx
- (g) xx xx xx xx
- (h) xx xx xx xx

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely -

(a) xx xx xx xx

(b) xx xx xx xx

(c) xx xx xx xx

(d) any dispute arising in connection with employment of officers and servants of the different classes of societies specified in sub-section (1) of Section 80, including their promotion and inter se seniority.

Section 70B of the Act deals with provisions as to pending proceedings, which is also extracted hereunder for easy reference.

70.B Provisions as to pending proceedings:

On the constitution of a Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, in respect of non-monetary disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69.

On a reading of the above mentioned statutory provisions it is clear that any dispute arising in connecton with employment of officers and servants of the different classes of societies specified in sub-section (1) of Section 80 including their promotion and inter se seniority is to be decided by the Arbitration Court. On the constitution of Co-operative Arbitration Court, every dispute pending before the

Registrar or any person invested with the power to dispose of the same by the Government or the arbitrator appointed by the Registrar , in respect of non-monetary disputes relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the court shall dispose of the same as if it were a dispute referred to it under Section 69. Same is the view taken by the Division Bench of this court in W.A. No 2116 of 2006. We therefore fully endorse the view taken by the learned judge in Prakasini's case. Consequently writ appeal lacks merits and the same would stand dismissed.

Sd/-

K.S. RADHAKRISHNAN
Judge

Sd/-
ANTONY DOMINIC
Judge

04/07/2007
en/

[true copy]